

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 8344 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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MANOHAR @ MANOJ SAHEBRAO BAGUL THR' WIFE KAVITABEN
MANOJBHAI - Petitioner(s)

Versus

DISTRICT MAGISTRATE & 2 - Respondent(s)

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Appearance :

MR MP SHAH for Petitioner(s) : 1, MS. KRUTI M SHAH for Petitioner(s) :
1,

DS AFF.NOT FILED (R) for Respondent(s) : 1, 3,

GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 05/12/2007

ORAL JUDGMENT

1. Heard Mr.M.P.Shah and Mr. K.M.Shah for the
petitioner and learned A.P.P. Mr.L.R.Pujari for the
respondents.

2. By way of the the present petition, the petitioner-detenu has challenged the legality and validity of the order of detention dated 23-1-2007 passed by the District Magistrate, Surat, in exercise of powers under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985(for short "the Act").

3. The petitioner-detenu is branded as a "bootlegger" within the meaning of Sec.2 (b) of the Act as he was found involved in offences under the Bombay Prohibition Act by engaging himself in the illegal sale and distribution of country liquor. While passing the order of detention the detaining authority has mainly considered the fact of registration of a single offence punishable under Sections 66(1)B, 65AE and 116(1) of the Bombay Prohibition Act registered as CR no.II 1057/1967 and the statement of the accused in the probibition case.

4. The learned Advocate for the petitioner-detenu has assailed the order under challenge on various grounds. However, this petition is capable of being disposed of on the sole ground that the order of detention is based on registration of a solitary incident. Reference in this connection may be had to the decision rendered in the case of SOHANLAL SURAJARAM VISNOY VS. STATE OF GUJARAT , 2004(2) G.L.R.1051.

5. The present case can at the most be said to be involving law and order problem for which the

petitioner can be adequately punished. It is therefore difficult for this Court to accept that the petitioner has been rightly detained as the activities of the petitioner can at the most be termed as affecting law and order. In short, no further discussion on the other points raised in this petition is required as in the opinion of this Court, the order of detention is not sustainable in the eye of law.

6. In the result, the petition is allowed. The impugned order of detention dated 23-1-2007 passed by the District Magistrate, Surat is hereby quashed and set aside and detenu is hereby ordered to be set at liberty forthwith, if not required to be detained in any other case. Rule is made absolute. Direct service is permitted.

(M.D.Shah, J.)

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